Supreme Court, U.S.
FILED
JAN 21 1993
OFFICE OF THE CLERK

No. 92-641

In The

Supreme Court of the United States

October Term, 1992

LEONARD NOBELMAN AND HARRIET NOBELMAN,

Petitioners,

vs.

AMERICAN SAVINGS BANK,

Respondent.

On Writ Of Certiorari To The United States Court Of Appeals For The Fifth Circuit

JOINT APPENDIX

PHILIP I. PALMER, JR.*
PALMER & PALMER, P.C.
1201 Main Street
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Dallas, Texas 75202
(214) 748-1211

Counsel for Petitioners

MICHAEL J. SCHROEDER*
MILLER, DAVIS & OPPER, P.C.
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(214) 630-5001

Counsel for Respondent

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Fort Worth, Texas 76180
(817) 589-0270

Counsel for Standing Chapter 13 Trustee

*Counsel of Record

Petition For Certiorari Filed October 13, 1992
Certiorari Granted December 7, 1992

COCKLE LAW BRIEF PRINTING CO., (800) 225-6964
OR CALL COLLECT (402) 342-2831

JOINT APPENDIX

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3. Decision Sought to be Reviewed:

   Court of Appeals for the Fifth Circuit

   Nobleman vs. American Savings Bank, 968 F.2d 483 .....Appendix, Pet. Cert. 1

BANKRUPTCY COURT – NORTHERN DIST. of TEXAS
PETITION DOCKET 6/88

341 MEETING	CLAIM DEADLINE
10/4/90 @ 9:30	1/2/91
DISCHARGE HEARING	**523/727 COMPLNT**
/ /	/ /

DISTRICT	OFFICE	YR-DOCKET NO-JUDGE
0539	3	390-35116-HCA-13

DATE FILED	REOPENED	JOINT PETITION? T
08/06/90		No Asset Asset

NAME OF DEBTOR
Nobelman, Leonard

KA/DBA

SSAN OR TAX ID: 072-26-7667

NAME OF JOINT DEBTOR
Nobleman, Harriet Ann (sic)

AKA/DBA

SSAN OR TAX ID: 454-48-1163

ADDRESS OF DEBTOR
4748 Old Bent Tree Lane #507
Dallas TX 75287

ADDRESS OF JOINT DEBTOR

COUNTY: COLLIN TX CODE 48085

JUDGE: Abramson, Harold C. CODE: A351

TYPE OF CASE: Voluntary

NATURE OF DEBTOR: Wage Earner

COMMENCED UNDER: 13
FEE PAID: T

IF BUSINESS, FORM OF ORGANIZATION
N/A

ST. #OF CREDITORS. 1 to 15
ST. ASSETS (IN 000'S): Under 50
ST. LIAB. (IN 000'S): Under 50

TYPE OF BUSINESS: N/A

OF EMPLOYEES: N/A

OF EQUITY SECURITY HOLDERS: N/A

ATTORNEY FOR DEBTOR
Zyne, Rosemary J.
5430 LBJ Frwy., LB 33, #875
Dallas, TX 75240 214/960-7477

TRUSTEE
Truman, Tim
7001 Grapevine Hwy. #510
Ft. Worth, TX 76180

OTHER

ATTORNEY FOR TRUSTEE

FILED	DATE OF ENTRY	DOC. NUM-BER	RECORD
	8/06/90	1	Petition Filed
	8/06/90	2	Notice to Consumer Debtor(s)
	8/06/90	3	Mailing Matrix Filed Matrix Deficiency
			Matrix Deficiency Notice Issued
	8/06/90	4	Attorney's Disclosure of Compensation
			Application to Employ Counsel for Debtor
			List of Twenty Largest Unsecured Creditors
	9/07/90	7	Stmt of FinAffrs & Sch 8/31/90 or (Ch. 13 Stmt.)
			Schedule of Income and Expenditures
			Statement of Debtor's Intentions
			Appointment of Trustee and Trustee Acceptance
	9/18/90	9	Notice of § 341 Mtg. and § 524(d) or Confirm Hrg with Cert. of Mailing # of Notices:

			§ 341 Meeting Conducted & Rpt of Exempt Prop Debtor(s) Appeared: [ ] TRUE [ ] FALSE Trustee finds: [ ] Assets [ ] No Assets [ ] This is a change from § 341 Notice
9/07/90		8	8/31/90 Chapter 13 Plan Summary
			ORDER confirming Ch 13 Plan for ___ months
			Debtors(s) Modified Ch 13 Plan, Motion for valuation
	10/31/90		with notice of hearing Hearing date: 12/6/90
11/05/90		11	Hearing time: 1:30 p.m.
	8/02/91	37	Amended Mailing Matrix
			ORDER Dischg. of Debtor
			Not. of Dischg. Mailed # of Notices:
			Trustee's No-Asset Rpt. & Closing Application
			Trustee Final Report [ ] NO ASSET [ ] ASSET
			ORDER Closing Case
			ORDER Dismissing Case
			Not. of Dismissal Order # of Notices:
			ORDER Reopening Case
8/20/90	8/23/90	5	Notice of appearance filed by Murray Mortgage Co,

			Deborah Putman, Bankruptcy Manager, PO Box 809038, Dallas, TX 75380-9038. df
8/27/90	9/7/90	6	"T" mot to dism w/hrg 9/6/90 @ 9:00am. df
		7-8	FRONT df
10/10/90	10/24/90	10	Report of (adjrnd) 341 meeting. df
11/5/90	11/16/90	12	Mot. of Murray Mortgage Co. to lift stay & for adequate protection; Michael J. Schroeder, ATTY; 4131 N. Central expy, #1000; Dallas, Tx 75204. mjh
11/5/90	11/16/90	13	Objection of Murray Mortgage Co. to confirmation of Plan. mjh
11/6/90	11/16/90	14	NOT. OF HRG. on #12 above; set for 11/27/90 @ 9:15 am. mjh
11/13/90	11/16/90	15	C/S of #14 above. mjh
11/14/90	11/16/90	16	Trustee's objection to confirmation. mjh
11/15/90	11/28/90	17	Dbtrs response to lift stay moton filed by Murray Mortgage Co. df
11/15/90	11/28/90	18	Affidavit of Leonard Nobelman. df
11/21/90	11/28/90	19	Affidavit in support of motion to lift stay and

			demand for adequate protection filed by Debbie Putman, Murray Mortgage Co. df
11/27/90	11/28/90	20	Amended trustee's objection to confirmation. df
11/27/90	12/5/90	21	P/M re: lift stay-Murray Mortgage. df
12/4/90	1/8/91	22	Trial brief filed by atty for debtor. df
12/5/90	1/8/91	23	Trial brief in support of amended trustee's objection to confirmation filed by trustee. df
1/3/91	1/8/91	24	Motion for approval of an agreement pursuant to bk rule 4001(d) filed by Murray Mortgage Co, agent for American Savings Bank, atty: Michael J. Schroeder, 4131 N. Central Expwy Comerica Bank bldg, Suite 1000, Dallas, TX 75204. df
1/28/91	2/5/91	24	A/O conditioning continuance of auto stay as to Murray Mortgage Co, servicing agent for American Savings Bank, stay to remain in effect provided debtor complies with conditions of order with regard to R/P being Unit #507, bldg 5, and .67% common elements in

			Parkway Lane Condominiums, City of Dallas, Collin Co, TX. (HCA) cc: mld df
2/13/91	2/14/91	26	FINDINGS OF FACT and Conclusions of Law per conds. HCA. ea
3/5/91	3/7/91	27	TRANSCRIPT, hrg held 12/6/90. df
3/11/91	3/12/91	28	ORDER Denying conf of dbs' mod ch 13 plan. O'd Objs to conf of dbs' plan by tr & Murray Mortg Co is sustained, & conf of dbs' mod plan is denied. HCA c:mld rwm
3/21/92	3/21/91	20	Notice of appeal filed by Leonard and Harriet Nobleman re: order denying confirmation of dbs' modified chpt 13 plan eod 3/12/91 filing fee pd $105.00 le
3/21/91	3/21/91	30	C/M on ntc of appeal doc. #29 le
3/21/91	3/21/91	31	Not regarding appeals to the U.S. District Court mailed to Rosemary J. Zyne 3 Lincolon Centre, Ste. 875 5430 LBJ Frwy., LB 33 Dallas TX 75240 le
4/1/91	4/2/91	32	Designation of record on appeal and stmt of issues filed by Leonard and Harriet Nobleman, appellants w/c/s le

4/17/91	4/19/91	33	CA-3-91-0753-H copy of ltr of transmittal of record on appeal to the U.S. District Court re: order eod 3/12/91 doc. #28 le
5-9-91	5-20-91	34	Appellant's Statement of Costs by Atty for Db w/c/s jb
5-16-91	5-20-91	35	Affd in Support of Mtn for RFS re Toyota Motor Credit Corp (Jerry L'Hommedieu) by Marsha Dekan w/c/s jb
6/24/91	6/28/91	36	CA3-91-0753-H, MEMORANDUM OPINION & ORDER, AFFIRMED. Judge Sanders mjh
		37	Illegible
8-2-91	8-6-91	38	Ntc of Bkcy by Rosemary Zyne for Db w/c/s jb

APPEAL CLOSED

U.S. District Court
Northern District of Texas (Dallas)

CIVIL DOCKET FOR CASE #: 91-CV-753

Nobleman v. American Sav, et al, et al Filed: 4/17/91
Assigned to: Chief Judge Barefoot Sanders
Demand: $0,000 Nature of Suit: 422
Lead Docket: None Jurisdiction: Federal Question
Dkt# in Bk Ct is 390-35116-HCA-13

Cause: 28:1334 Bankruptcy Appeal

LEONARD NOBLEMAN
appellant

Rosemary Jeanne Zyne, Attorney
at Law
214-960-7477
[COR LD NTC]
Law Offices Of Rosemary J Zyne
Three Lincoln Centre
5430 LBJ Freeway, LB 33
Suite 875
Dallas, TX 75240
USA
214-960-7477

HARRIET NOBLEMAN
appellant

Rosemary Jeanne Zyne, Attorney
at Law
(See above)
[COR LD NTC]

v.

AMERICAN SAVINGS BANK
appellee

Michael J. Schroeder
[COR LD NTC]
Settle & Pou
Comerica Bank Building
4131 North Central Expwy
Suite 1000
Dallas, TX 75204
USA
214-520-3300

TIM TRUMAN, Standing Chpt. 13 Trustee
appellee

Charles Lester Kennon, III,
Attorney at Law
817-589-7454
[COR LD NTC]
Tim Truma, Chapter 13 Trustee
7001 Grapevine Highway
Suite 510
Fort Worth, TX 76180
USA
817-589-7454

Docket as of September 17, 1991 8:45 am

Page 1 NON-PUBLIC

APPEAL CLOSED
INTERNAL USE ONLY: Proceedings include all events.
3:91cv753 Nobleman v. American Sav, et al, et al

Harold C Abramson
[COR LD NTC] [PRO SE]
U. S. Bankruptcy Court
Earl Cabell Federal Bldg.
1100 Commerce St.
Room 14A7
Dallas, TX 75242-1496
USA

214/767-0814
FTS 729-9180

Docket as of September 17, 1991 8:45 am

Page 2 NON-PUBLIC

APPEAL CLOSED
INTERNAL USE ONLY: Proceedings include all events.
3:91cv753 Nobleman v. American Sav, et al, et al

4/17/91	1	Letter from U.S. Bankruptcy Court transmitting bankruptcy record on appeal. (5) (cxb)
4/18/91	2	Letter transmitting bankruptcy record on appeal to presiding judge. CC to counsel, bankruptcy clerk and bankruptcy judge. Appellant's brief due 5/3/91 for Harriet Nobleman, for Leonard Nobleman (1) (all)
5/3/91	3	Appellant's BRIEF by Leonard Nobleman, Harriet Nobleman (15+) (all)
5/17/91	4	Creditor/Appellee's BRIEF by Murray Mortgage Co., as Servicing Agent for American Savings Bank. Appellant's reply brief due 6/3/91 for Harriet Nobleman, for Leonard Nobleman (15+) (all) [Entry date 05/21/91]
5/21/91	5	Appellee's BRIEF by Tim Truman, Standing Chapter 13 Trustee; Appellant's reply brief due 6/5/91 for Harriet Nobleman, Leonard Nobleman (15+) (all) [Entry date 05/22/91]
6/4/91	6	Appellant's BRIEF by Leonard Nobleman, Harriet Nobleman Appellee's brief due 6/19/91 for Tim Truman, for American Savings Bank (13) (all)

6/24/91	7	MEMORANDUM OPINION AND ORDER the Order of the USZ Bankruptcy Court for the Northern Dist. of Texas Dallas Divison, entered 3/12/91 is AFFIRMED. (signed by HBS-cpys to counsel-6/24 . . . copies to Bk Judge and Bk Office. (16)) (dph)
6/24/91	–	Case closed (mer) [Entry date 06/27/91]
7/24/91	8	NOTICE OF APPEAL by Leonard Nobleman, Harriet Nobleman, appellants, to U.S. Court of Appeals for the 5th Circuit from the Final Order of the District Court affirming the Bankruptcy Court's Denial of Confirmation of Appellants' Chapter 13 Plan of Reorganization entered on 6/24/91. Fee payment amount: $105.00 Receipt #35955 Appeal record due on 8/8/91 (klm)
7/24/91	–	Notice of appeal and certified copy of docket to USCA: [8-1] appeal (klm)
7/24/91	–	**Address labels only (klm)
8/5/91	–	USCA Case Number, RE: [8-1] appeal USCA NUMBER: N.O.#91-1796 (klm)
8/7/91	–	Transmitted record on appeal to U.S. Court of Appeals: Case Papers – 2 Volumes, 1 vol. Bankruptcy Papers. [8-1] appeal (klm)
8/7/91	–	**Address labels only (klm)

Docket as of September 17, 1991 8:45 am

4/17/91

SUBJECT
- CRIM
- PRIS. w/
- PRIS. w/out
- 2255 w/
- 2255 w/out
- SOC. SEC.
- NLRB
- P.C. DIV.
- P.C. FED
- U.S. CIV
- TAX COURT

XX BKCY
- Oth Agcy Review
- CIVIL RIGHTS
- TAX D.C.
- SCHOOL
- CROSS APPEAL

CROSS APPEAL NO. 91-1796 CASE NUMBER

CIRCUIT 5 APPEAL ___ FROM Northern DISTRICT OF Texas AT Dallas

DATE DOCKETED 7/31/91 $100 FEE PAID Pd DC
JUDGE Barefoot Sanders

DATE NOTICE OF APPEAL FILED 7/24/91

D.C. DOCKET NUMBER CA3-91-0753-H
REPORTER _____

IN THE MATTER OF: LEONARD NOBLEMAN and HARRIET NOBLEMAN,

Debtors.

LEONARD NOBLEMAN and HARRIET NOBLEMAN,

Appellants,

versus

AMERICAN SAVINGS BANK and TIM TRUMAN, Standing Chapter 13 Trustee,

Appellees.

APPEARANCE FILED DATE	CODE	ATTORNEYS FOR APPELLANT	ARG
		FOR: LEONARD & HARRIETT NOBLEMAN	
8-12-91	✓	Philip Palmer, Jr., One Main Pl, 1201 Main St., Ste. 1510, Dallas, TX 75202 (214/748-1211)	✓

~~8-12-91~~	*	~~Rosemary J. Zyne~~ ~~Three Lincoln Centre,~~ ~~LB 33,~~ ~~5430 LBJ Frwy., Ste. 875~~ ~~Dallas, TX 75240~~ ~~(214/960-7477)~~	
mft		FOR AMICUS CURIAE HAROLD J. BARKLEY:	
10-28-91	✓	Terre M. Vardaman, P.O. Box 55849, Jackson, MS 39296-5849 (601) 981-7800 3218 N. State St. (39216)	

APPEARANCE FILED DATE	CODE	ATTORNEYS FOR APPELLEE	ARG
		FOR AMERICAN SAVINGS BANK: SETTLE & POU,	
9-9-91	✓	Michael J. Schroeder, -do-	✓
9-9-91	x	David M. Odens, -do- Comerica Bank Bldg., 4131 N. CentralExpwy., Ste. 1000 Dallas, TX 75201 (214/520-3300)	

		FOR TIM TRUMAN:	
8-28-91	✓	Charles Kennon,	✓
		7001 Grapevine Highway,	
		Ste. 510,	✓
		Ft. Worth, TX 76180	
		(817/589-7454)	
		(FOR AMICUS -	
		Federal Home	
		Loan Mortgage Corp.)	
12-6-91	✓	Dean Cooper, Assoc.	
		Gen. Cnsl.,	
		FHLMC, 8200 Jones	
		Branch Dr.,	
		McLean, VA 22102	
		(703) 903-2641	
		(For AMICUS -	
		Mortgage Bankers Assn. of	
		America)	
12-6-91	✓	Michael L. Riddle,	
		2100 Olympia &	
		York Tower	
		1999 Bryan St.,	
		Dallas, TX 75201	
		(214) 220-6300	

1. RECORD, EXHIBITS AND BRIEF INFORMATION
Filing:

Reporter's Ack. due _____ Trans. Fld. _____

Transcript due _____ Disc. Date _____

_____ Partial Record or Cert. List

8-12-91 Record on Appeal No. of Vols. 2

_____ Supp. Record No. of Vols. ___

_____ Second Supp. Record No. of Vols. ___

_____ Third Supp. Record No. of Vols. ___

_____ Exhibits ___ Env. ___ Box ___ Pkg. ___ Roll

_____ Exhibits ___ Env. ___ Box ___ Pkg. ___ Roll

_____ Appendix ___ (P) ___ (M)

SEP 25 1991 Records Excerpts - Appellant

_____ Record Excerpts - Appellee

_____ Briefing Notice Issd. _____

SEP 25 1991 Brief for Appellant (27) _____

_____ Brief for Appellant _____

_____ Brief for Cr. Appellant _____

10-31-91 Brief for Appellee (22) Amer. Sugs. Bank

11-15-91 Brief for Appellee (27) Truman

_____ Brief for Appellee _____

_____ Brief for Cr. Appellee _____

12-9-91 Reply Brief for Appellant (17) _____

_____ Reply Brief for Cr. Appellant _____

_____ Supp. Brief for Appellant _____

_____ Supp. Brief for Appellee _____

OCT 15 1991 Brief for Amicus (9) Barkley _____

_____ Intervenor _____

5/11/92 Rule 28(j) letter – Appellant (j) _____

1/31/92 Rule 28(j) letter – Appellee (j) (Appelle American Savings)

11-22-91 Brief for Amicus (20) Fed. Hm. Ln.

4-22-91 Brief for Amicus (9) Murt. Bankers

7/27/92 Rule 28(j) ltr. – appellant(J)

MISCELLANEOUS FILINGS Filing:

7/31/91 Dup. Notice of Appeal and Clerk's Statement of Docket Entries

_____ Papers Trans. from Misc. No. _____

_____ Order of DC Granting/Denying Appeal IFP

_____ Order of DC Granting/Denying IFP & CPC

_____ Order of DC Appointing Counsel

_____ Affidavit of Financial Status

_____ CJA 20 Issd./Voucher Recd. _____

_____ NOA Treated as CPC Application

AGENCY REVIEW CASES Filing:

_____ Petition for Review of Order ( ) of
__ NLRB __ FERC __ ICC __

_____ Application for Enforcement – NLRB

_____ Answer to Application for Enforcement

_____ Cross Application for Enforcement

4. EXTENSION Flg. Motion for: Order Fld. Ext. to:

_____ Transcript _____

_____ Transcript _____

_____ Transcript _____

_____ Appellant's Brief _____

_____ Appellant's Brief _____

_____ Appellant's Brief _____

_____ _____

_____ Appellee's Brief _____

_____ Appellee's Brief _____

_____ Appellee's Brief _____

_____ Reply Brief _____

_____ _____

_____ _____

5. CALENDAR INFORMATION Week of 3-9-92

Special Panel _____

Summary Panel: _____

1-31-92 Case Assigned for 3-11-92 in
✓EB _W _E _ _____

_____ Case Cont'd for Reassignment _____

_____ Case Reassigned for _____ in
_EB _W ✓E _ _____

Hearing Panel: JRB, WG, EMG

3/11/92 Case Argued ✓ by Appellant
✓ by Appellee _____

_____ Case Sub. w/o Arg. _ by Appellant
_ by Appellee

6. OPINION INFORMATION P ✓ NP _ 7 Print Pages

08/13/92 Opinion Rendered

EMG Affirmed ____ _____

____ Reversed _____

____ Affd. in Pt. ____ P.C. ____ Conc. Spec.

____ Vacated XX Signed ____ Dis.

____ Dismissed ____ Rule 47.6 ____ Dis. in Pt.

_____ Opinion Withdrawn _____

_____

7. REHEARING INFORMATION

_____ Mot. for Ext. - Ext. to: _____

_____ Mot. for Ext. - Ext. to: _____

_____ Petition for Rehearing _____
___ Appellant ___ Appellee ___ Reg.
___ En Banc

_____ Petition for Rehearing _____
___ Appellant ___ Appellee ___ Reg.
___ En Banc

_____ Response of _____

_____ Order Denying Rehearing
___ Dissenting

_____ ___ Opinion Petition for Rehearing

_____

NO. 91-1796

8. MOTIONS

Filing Motion to or for:	Response Filed By	Date Granted	Denied	Court Clerk By	Date
Mandamus					
Reinstate Appeal					
Stay Further Proceedings in CA					
Stay Pending Appeal					
Injunction Pending Appeal					
Consolidate Appeals W/					
Leave to Appeal IFP					
Bail Pending Appeal					
Withdraws as Counsel					
Appointment of Counsel					
Supplement Record					
Expedite					
File Brief in Excess Pgs.					
File Brief in Excess Pgs.					
Dismiss by Appellant					
Dismiss by Appellee					
10/7/91 Amicus Curiae (Barkley)				✓	10/15/91
File Supp. Brief					
Stay of Mandate					
Recall of Mandate					
Intervene					
Intervene					
File Reply Br. out of time				✓	

9. OTHER DOCKET ENTRIES

9/23/91	Flg. Ltr dtd. 9/18/91 from counsel for appellant consenting to filing of amicus curiae brief by Harold J. Barkley, Jr., Chapter 13 Trustee.
11/12/91	Flg. Mot. of Mortgage Bankers Assn. of America for leave to file amicus brief in support of appellee American Savings Bank, F.A.
11/14/91	Flg. Mot. of Federal Home Loan Mortgage Corp. for leave to file amicus brief in support of appellee American Savings Bank, F.A.
11/22/91	Minute Entry – Motion of Federal Home Loan Mortgage Corp. for leave to file amicus curiae brief in support of appellee is GRANTED.
11/22/91	Minute Entry – Motion of Mortgage Bankers Assn. of America for leave to file amicus curiae brief in support of appellee is GRANTED.

10. JUDGMENT OR MANDATE INFORMATION

_____	Bill of Costs
AUG 13 1992	Flg. & Entg. Judgment
_____	Issg. Copy of Jdgt. to Bd & Cnsl. Mandate Stayed to _____
SEP 4 1992	Jdgt. as Mdt. Issd. to Clerk
_____	Jdgt. as Mdt. Reissd. to Clerk
_____	Dismissal Issd. to Clerk _____
SEP 8 1992	Record on Appeal Retd. to Clerk 2 vols.
_____	Exhibits Retd. to Clerk
_____	_____
_____	_____

11. SUPREME COURT INFORMATION

_____	Notice of Appeal to S.C.
12-17-92	Preparing Proceedings on Certiorari (1 Vol.)
_____	Preparing Supp. Proceedings on Cert.
_____	Transmitting Orig. Exhibits to S.C.
_____	Order of S.C. – Ext. to _____
10/20/92	Notice of Flg. of Cert. Pet. on 10/13/92
12-14-92	Order of S.C. ___ Denied X Granted 12-7-92
_____	Notice of Denial of Pet. for Rehearing
_____	Opinion of S.C. dated _____

S.C. Docket # 92-641

S.C. Subj. Matter ___ Crim ___ USC ___ P. Civ. ___ AGCY

_____